

Notice of Allowability

Application No.

09/558,576

Examiner

Holly Schnizer

Applicant(s)

WHITSETT M.D., JEFFREY A.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed September 2, 2003.
2. ☒ The allowed claim(s) is/are 35-44 and 54-71.
3. ☒ The drawings filed on 26 April 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 2 ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3 ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. 7-24-03
- 4 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

- 5 ☐ Notice of Informal Patent Application (PTO-152)
- 6 ☐ Interview Summary (PTO-413), Paper No. _____.
- 7 ☒ Examiner's Amendment/Comment
- 8 ☐ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

Christopher S. Low
CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Suzanne Jepson and Dale Hunt on December 4, 2003.

The application has been amended as follows:

IN THE CLAIMS:

35. (Amended) A method for the ~~prevention and~~ treatment of pulmonary disease comprising: introducing a composition consisting essentially of mammalian surfactant protein-D (SP-D) protein into a human in an amount effective to reduce the symptoms of, ~~or prevent,~~ pulmonary disease.

55. (Amended) A method for the ~~prevention and~~ treatment of a pulmonary viral disease comprising:

introducing a composition consisting essentially of mammalian surfactant protein-D (SP-D) into a human in an amount effective to reduce the number of viruses or symptoms of the pulmonary viral disease.

56. (amended) The method of Claim 55 wherein the pulmonary viral disease is caused by a virus selected from the group consisting of: Adenovirus, Respiratory Syncytial virus (RSV), and Influenza virus.

59. (Amended) A method for the ~~prevention and~~ treatment of pulmonary disease comprising: administering a recombinantly expressed mammalian surfactant protein-D (SP-D) protein into a human in an amount effective to reduce the symptoms of, ~~or prevent~~ pulmonary disease.

69. (Amended) A method for the ~~prevention and~~ treatment of a pulmonary viral disease comprising:

administering a recombinantly expressed mammalian surfactant protein-D (SP-D) protein into a human in an amount effective to reduce the number of viruses or symptoms of the viral disease.

Conclusions

Claims 35-44 and 54-71 are allowable for reasons of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Schnizer whose telephone number is (703) 305-3722. The examiner can normally be reached on Tuesday, Thursday, and Friday from 8 am to 5:30 pm. ***The examiner has been tentatively scheduled to move to the new


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office on January 8, 2004. After this time, the examiner may be reached at (571) 272-0958. ***

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (703) 308-2923. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


Holly Schnizer
December 4, 2003


CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600